

LOWER PAXTON TOWNSHIP ZONING HEARING BOARD

Meeting of October 11, 2012

Members Present

Richard Freeburn
Sara Jane Cate
David Dowling
Jeffery Staub
Greg Sirb

Also in Attendance

James Turner
Dianne Moran

Special Exception 12-02 A

Applicant: Andrea Leigh O'Hamill

Address: 5613 Devon Drive
Harrisburg, PA 17112

Property: 5613 Devon Drive
Harrisburg, PA 17112

Interpretation: Article 306.B.1 – Allowed Uses in Primarily Residential Zoning Districts

Grounds: Article 306 of the Lower Paxton Township Zoning Ordinance pertains to this application. A major home occupation requires a Special Exception

Fees Paid: July 20, 2012

Property Posted: October 2, 2012

Advertisement: Appeared in the Paxton Herald on September 26th and October 3, 2012.

The hearing began at 7 p.m.

Mr. Freeburn noted that it was customary to enter the application and site plans as Township exhibits, and questioned if the applicant had any objections. Ms. O'Hamill answered that she did not.

Mr. Freeburn swore in Dianne Moran, the Planning and Zoning Officer for Lower Paxton Township.

Ms. Dianne Moran advised that the appropriate fees were paid on July 20, 2012. The proper advertisements appeared in The Paxton Herald on September 26, and October 3, 2012. The hearing notices were posed on October 2, 2012

Mr. Freeburn questioned what ordinance pertains to this application. Ms. Moran answered that this variance is for Article 306.B.1 – Allowed Uses in Primarily Residential Zoning Districts. She noted that a pet grooming studio is considered a major home occupation and requires a special exception.

Mr. Freeburn swore in Andrea O'Hamill, the applicant for this Special Exception. He noted that Attorney William Tully was present with the applicant.

Mr. Tully questioned if the Board members had the exhibits previously provided by the applicant. Mr. Freeburn answered yes.

Ms. O'Hamill explained that she previous applied for a special exception in May of this year and her application was denied. She noted that she took into consideration the recommendations provided by the Zoning Hearing Board members, mainly that she enlarge her driveway and provide a stable walkway. She noted that she had the walkway paved and enlarged her driveway and measured the grooming area which comes in under the 25% requirement. She noted that she would like once again to apply for a special exception.

Mr. Tully questioned Ms. O'Hamill if she has photographs showing the mentioned improvements. Ms. O'Hamill answered yes. She noted that the first three pages of her booklet showed Google maps of her home that is located in the Township. She noted that the following page showed her driveway that was paved noting that she moved her mailbox to the other end of the property. She explained that she included a picture of how the driveway appeared prior to the improvement.

Ms. O'Hamill noted that the next page showed a picture of the old walkway and one of the newly improved walkway. She noted that she showed the improvements made by the gate that would provide wheelchair access to her home. She explained that the next picture showed the main door with a small sign on the door identifying the entrance to her business. Mr. Dowling questioned if there was any signage in the front of her home. Ms. O'Hamill answered no, and she stated that she will not have any signage in the front of her home.

Ms. O'Hamill noted that the next page showed a picture of the grooming studio. She stated that she took measurements of the grooming studio and calculated that 25% of the entire house would be 464 square feet with the grooming studio only 305 square feet.

Mr. Sirb questioned where the grooming studio is located in the house. Ms. O'Hamill answered in the basement. Mr. Sirb noted that the basement measures to be 720 square feet, and he questioned what the other areas of the basement would be used for. Ms. O'Hamill answered that she has an office and a bathroom in the basement, but most of it will be used for storage. Mr.

Sirb questioned if any of the grooming area would be located on the first floor or in the sunroom. Ms. O'Hamill answered no.

Ms. O'Hamill noted that the next set of pictures showed the neighbor's homes. The next door neighbor is the Lehman's who live at 5615 Devon Drive and the Foltz's lives at 5611 Devon Drive. She noted that Mr. Lehman signed a petition stating that he would have no problem with the business in her home. She explained that the houses directly across the street from her home, the Snyder's and Streckewald's also signed petitions. She noted that some neighbors showed an interest in bringing their dogs to be serviced by her pet grooming business.

Ms. O'Hamill noted that Shirley McLaughlin of 5614 Devon Drive and Nancy Shirley of 5603 Devon Drive have also signed petitions. She noted that she also received sign petitions from other neighbors on her street.

Mr. Tully questioned if Ms. O'Hamill would have more than one customer at a time at the business. Ms. O'Hamill answered no. Mr. Tully noted that she would only anticipate one car at a time at her home, with the worst case scenario being two, noting there is adequate off-street parking for two cars. Mr. Sirb noted that this would mean using the new driveway, and he questioned if two cars could be parked at that location. Ms. O'Hamill answered, very easy.

Mr. Tully questioned if Ms. Moran inspected the premises. Ms. Moran and Ms. O'Hamill answered yes. Mr. Tully questioned if any part of the house was unavailable to be inspected by Ms. Moran. Ms. O'Hamill answered no.

Mr. Sirb noted that he reviewed the neighbor letters and the reference to small dog, did it mean that she would only service small dogs or would it be a small business. Ms. O'Hamill answered that it is a small business.

Ms. Cate noted that you only groom one dog at a time, but questioned if Ms. O'Hamill may have a second dog waiting. Ms. O'Hamill answered no, but occasionally an owner might be caught up in traffic and delayed in picking up their dog. She noted in that instance, the dog would be put into a crate until the owner arrives. Ms. Cate questioned if people wait to have their dogs groomed. Ms. O'Hamill answered no as it takes roughly one and a half to two hours to groom a small dog, while a large dog may take three hours. She noted if she is working more than two hours on one dog she would not schedule another dog until she would be finished with the first one.

Mr. Sirb questioned Ms. O'Hamill if she would be selling any products. Ms. O'Hamill answered no. Mr. Sirb questioned how Ms. O'Hamill would get rid of the dog hair. Ms. O'Hamill answered that she would put the dog hair in the trash.

Mr. Sirb questioned if there are any other employees involved with this business. Ms. O'Hamill answered no.

Ms. Cate questioned if Ms. O'Hamill planned on having any other employees in the future. Ms. O'Hamill noted that she does not want to as she does not have enough income to afford that.

Mr. Freeburn noted if the application is granted and it was left open ended and Ms O'Hamill decided she needed more employees to help you with her business, and it grows into a larger dog grooming business, then she would have employee cars parked in the driveway and there would not be enough room to park customer's vehicles, resulting in cars being parked on the street. Mr. Tully noted that Ms. O'Hamill stated if she had more business then she would rent a commercial location for her use. He noted that there is no room to expand her business. Mr. Sirb noted that he does not like the in-home occupations. He sated that he hopes that she does well to bring revenue into the Township but there comes a point when you have to move out to another location. He noted that it is not his business to tell Ms. O'Hamill that but it is his business to ensure that if the Board grants the special exception that it be made so stringent that she will have to move relocate her business it if expands. He noted that his fear is that this in-home occupation would get bigger and bigger and more issues occur. Mr. Tully suggested that the special exception could be granted in such a way that it would restrict Ms. O'Hamill from expanding the business. Mr. Sirb noted that he would want to limit it to one employee, Ms. O'Hamill. Ms. Cate agreed that there should be no employees.

Mr. Dowling noted that Ms. O'Hamill appeared before the Board in May of 2012 and the request for the special exception was denied at that time. Ms. O'Hamill answered yes. He questioned, since that time, have you been grooming dogs at your home. Ms. O'Hamill noted that she goes to people's homes to do the work. Mr. Dowling noted that the last sentence written by one of the neighbors says, "even though I have been grooming dogs..." he noted that he reads that to suggest that she could have been grooming dogs continuously. Ms. O'Hamill explained that she had been grooming dogs before that. Mr. Dowling questioned if it is your testimony that since the first request was denied in May that you have not been grooming dogs in your home up to this point. Ms. O'Hamill answered that she has had to go to the owner's homes to groom the dogs.

Mr. Dowling questioned Ms. O'Hamill how much money she has spent to make the changes to the home that she felt were suggested or necessary based upon the comments made by the Board members. Ms. O'Hamill answered that it was roughly \$2,500.00.

Mr. Dowling questioned Ms. Moran what the vote was to deny the special exception in May. Ms. Moran noted that the decision does not state what the vote count was. She noted that four people signed the decision. Mr. Sirb suggested that the vote was four to one to deny the special exception. Mr. Dowling noted that he voted for the special exception.

Mr. Tully noted that he was not present at the May hearing but he was under the impression that a neighbor complained that her business restricted access to his driveway. He suggested that his comment concerning the condition of the old driveway may have done much to result in a denial. He noted that the corrections have made a huge difference. Mr. Dowling noted that the Board generally does not like to grant a special exception unless it is fairly

restrictive. He noted that there are provisions in the code that permits the Zoning Hearing Board to do that, and to post conditions. Mr. Freeburn noted that he did not think there was adequate parking as the driveway was substandard for the requirements of customers that would result in people parking on the street and the street parking appeared to be congested. Ms. Cate agreed with Mr. Freeburn.

Mr. Sirb noted for home occupations his guidelines are: does it change the characteristics of the neighborhood, and if it does he will vote no, and if it doesn't he will keep an open mind. He noted that you have to have off-street parking, and the third point would be if there would be any hazardous chemicals or something out of the ordinary on site and how the waste is disposed. He noted that he needs to know that it will be done in an ordinary and safe fashion. He noted that another question that he has is will the neighbors be upset or would there be any smell associated with the business. He noted that he does not see that in this application, noting that there is now room to park two cars in the driveway, and if it is limited to no employees it would force Ms. O'Hamill's hand to expand. He noted that he is concerned that the entire basement could become the grooming center. He noted that there are a number of issues that come up for when you apply for an in-home occupation in a residential area. He noted that it would be different for an R-2, Agricultural or Commercial zoning area.

Ms. Cate noted that there has been a major improvement in the exterior of the home since the May meeting. Ms. O'Hamill noted that she is very serious about locating this dog grooming business in her home. She noted that she is the primary money maker for her family and to rent a place would not allow her to pay her mortgage. She stated that she will out grow the area in her home and she doesn't want to remain there forever for her business, however, she really needs to start her business in that location. She noted that the area in her home is not suitable for what her goals and dreams are.

Mr. Staub noted during the last hearing, the Board was provided information that the area that was proposed to use for the dog grooming location was well in excess of 25% but according to the information provided this evening, that is not the case eliminating that concern.

Mr. Sirb questioned what the hours of operation would be for the business and the days. Ms. O'Hamill explained that she would be closed on Sundays and Monday. She noted that all grooming is by appointment only and her working hours would be Tuesday through Saturday from 9 a.m., taking the last customer at 6 p.m. Ms. Cate questioned if Ms. O'Hamill grooms four or five dogs a day. Ms. O'Hamill noted that she does not want to do more than four dogs per day. She noted if she had to do more than that she would move to another location. She noted, at that point she would want to hire someone who could assist with bathing and making phone calls.

Mr. Freeburn noted that Ms O'Hamill would do one dog at a time, have no employees or signs, all customer parking would be off-street on the driveway, with no sale of products and no delivery of products.

Mr. Sirb noted with the hours being 9 a.m. to 6 p.m., he would like to see Ms. O'Hamill done in her business by 5:30 p.m. to 6 p.m. He noted that the congestion starts when you have an in-home occupation when it goes to 9 p.m. He noted that people don't want to hit traffic in their neighborhood. Mr. Dowling questioned Mr. Sirb what you do about people who don't get off work until after 6 p.m. and want to get their dog groomed. Mr. Sirb answered that they can wait until the next day. Mr. Dowling noted that they work the next day too. Ms. Cate questioned Ms. O'Hamill if she is open on Saturdays. Ms. O'Hamill answered that she is open on Saturday but does not want to groom more than four dogs per day and I am only talking about one person at that point coming in. She noted that there would not be four people coming at that time only one person. Ms. Cate noted that Ms. O'Hamill would take one dog at 6 p.m. Mr. Freeburn noted that she may not be done until 8 p.m.

Mr. Freeburn questioned if anyone in the audience wished to be heard on this application.

Mr. Freeburn swore in Patricia Stull, 5604 Devon Drive. Ms. Stull noted that she has two neighbors on her street that have more cars and congestion in their yard and in the front of their house than this young woman ever has. She noted that the one neighbor is directly across the street from her and it is like a traffic station. She noted if you are concerned about traffic and congestion, the other neighbor beside her has at least three cars all the time coming and going. She noted they have more congestion than this woman would. She noted if we are concerned about all these issues maybe we should be looking at some other things that are happening on that street.

Mr. Freeburn questioned if Ms. Stull had no objection to the application. Ms. Stull answered absolutely not, she noted that there are three families that live in one house and they have six cars. She noted that is congestion. Mr. Freeburn stated that he wanted to make sure that he was clear on what Ms. Stull was saying. Ms. Stull noted that Ms. O'Hamill improved her driveway and it can park four cars. She noted that the neighbor across the street from her has six cars in the driveway and two on the street.

Ms. Cate noted that Ms. Stull did not sign a petition. Ms. O'Hamill stated that she has it in her possession as Ms. Stull was away at the time she was collecting the petitions for the booklet. Ms. Stull noted that she has seen Ms. O'Hamill's shop. She noted that she has adopted a little dog and she took the dog to meet her. She noted that dogs love Ms O'Hamill and in no time she will be move her business to a larger location. She noted that the congestion that this Board is so concerned about needs to be addressed. She noted that it is more of a concern to her. She noted that the one young man has an exhaust system that sounds like a MAC truck. Mr. Tully noted that the Board does not have jurisdiction for policing the street. Ms. Stull noted that she appreciates the Zoning Hearing Board and the Township as she has lived in it for 45 years. She noted that there have been boats coming down the street as well.

Mr. Freeburn swore in Kelly Poyer, 5601 Devon Drive. Ms. Poyer explained that there is more traffic from the people who live there. She noted, the fact that Ms. O'Hamill redid her driveway to ensure that customers would not have to park on the street is huge. She noted that she was shocked because she did not know that she had applied for a special exception the first

time. She noted that Ms. O'Hamill only has one customer come to her house at a time and she was shocked that she was not approved the first time.

Mr. Freeburn noted, hearing no further testimony by the applicant, board members, or the audience, the board has 45 days to render a decision relative to this application.

Mr. Dowling made a motion to approve SE 12-02 application with the following conditions: It is for dog grooming only, only one dog at time, no employees, no signs, all parking for customers is off-street, no sales of products and no delivery of products. Mrs. Cate seconded the motion. Mr. Turner conducted the following roll-call vote: Mr. Staub, aye; Mr. Dowling, aye; Mr. Sirb, nay; Mrs. Cate, aye; and Mr. Freeburn, aye. Mr. Freeburn noted that the application was granted.

The hearing ended at 7:35 p.m.

Submitted by:

Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
ANDREA LEIGH O'HAMILL : DOCKET NO. SE 12-02

DECISION GRANTING SPECIAL EXCEPTION

The applicant seeks a special exception to conduct a pet grooming business in the R-1 zoning district. A hearing on the application was held on October 11, 2012.

Facts

1. The applicant and owner of the property in question is Andrea Leigh O'Hamill of 5613 Devon Drive, Harrisburg, Pennsylvania 17112. The applicant was represented at the hearing by William Tully, Esquire.

2. The property in question is located at 5613 Devon Drive and consists of a residential property with an attached one car garage. A single width driveway originally provided access to the garage. The applicant has since widened the driveway and relocated her mailbox so that the driveway can now accommodate four vehicles.

3. The applicant has previously established, without obtaining any Township permits, a pet grooming business located in the lower level of the residence. The applicant groomed approximately two to four dogs per day and scheduled only one dog at a time. At the time of the first application for special exception, parking was provided in the single width driveway and on street. Following the denial of the previous application, the applicant made the indicated improvements and resubmitted the request.

4. There are no employees associated with the business and hours are limited to 9:00 a.m. to 6:00 p.m. The area of the house being used in connection with the business is 305 square feet.

5. In addition to the applicant, a neighbor appeared to testify with regard to the application. Patricia Stull-Fontaine testified in favor of the application. She testified that it is not intrusive and that it does not generate traffic problems. Kelly Poyer of 5601 Devon Drive also

testified in favor of the application. The applicant also presented written statements from a number of other neighbors who were in favor of the special exception.

6. Notice of the hearing was posted and advertisement made as required by the ordinance.

Conclusions

1. Section 306.B.1 of the ordinance establishes major home occupations as a special exception in the Residential zoning district.

2. Section 116.C of the ordinance empowers the Zoning Hearing Board to grant special exceptions where the requirements of the Section are met.

3. The Board finds that the applicant is in compliance with relevant laws and regulations in connection with the business. As proposed, the business traffic generated can be accommodated in the neighborhood. The applicant's new parking improvements will safely accommodate the parking needs of the business.

4. The proposed business will not alter the essential character of the neighborhood nor pose a hazard to the general public. The business is conducted indoors and will not generate noise or noxious fumes.

Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the special exception should be and is hereby granted allowing the operation of a pet grooming business on the following conditions:

- (a) the business shall be dog grooming only;
- (b) the applicant shall limit customers to one at a time;
- (c) there shall be no employees other than the applicant;
- (d) there shall be no business sign;
- (e) customer parking shall be confined to the applicant's driveway;
- (f) there shall be no retail sales of product.

In all other respects the applicant shall conduct the business in strict accord with the plans and testimony presented to the Board.

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD

Date: 11-1-12

Richard E. Freeburn

Sarah Jane Cate
Sarah Jane Cate

David B. Dowling
David B. Dowling

Jeffrey W. Staub
Jeffrey W. Staub

Board member Sirb dissents from the decision of the Board.